



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

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May 1, 2014

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: 
William T Fujioka
Chief Executive Officer

MOTION TO SEND A 5-SIGNATURE LETTER IN SUPPORT OF H.R. 3717 (MURPHY, R-PA), (AGENDA ITEM NO. 13, MEETING OF MAY 6, 2014)

Item No. 13 on the May 6, 2014 Agenda is a motion by Supervisors Antonovich and Knabe to direct the County's Washington, D.C. advocates to direct the Executive Officer of the Board to send a 5-signature letter to Congress in support of H.R. 3717, the Helping Families in Mental Health Crisis Act.

Helping Families in Mental Health Crisis Act (H.R. 3717)

The Helping Families in Mental Health Crisis Act (H.R. 3717), which was introduced by Representative Tim Murphy (R-PA) on December 12, 2013, is a comprehensive mental health bill, which includes provisions to:

- Provide a new option to states to provide inpatient psychiatric hospital services to non-elderly adults under Medicaid, which currently is not reimbursable under what is called the Institutions for Mental Disease (IMD) exclusion;
- Create an Assisted Outpatient Treatment Grant Program, which would provide grants of up to \$1 million a year for outpatient mental health treatment services as an alternative to institutionalization on a pilot basis, and for which \$15 million a year would be authorized in Federal Fiscal Years (FFYs) 2014 through 2017;

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- Create a Demonstration Program to Improve Federally Qualified Community Behavioral Health Clinic Services, which would fund planning grants to enable up to 10 states to carry out 5-year demonstration projects to improve the provision of behavioral health services provided by federally qualified community behavioral health clinics, and for which \$50 million would be authorized in FFY 2016;
- Create a Tele-Psychiatry and Primary Care Physician Training Grant Program, which would fund telehealth services for mental health disorders and the training of primary care physicians in behavioral health screening, and for which \$3 million a year would be authorized in FFYs 2015 through 2017;
- Expand the application of electronic health records (EHRs) to the mental health community by expanding the definition of "health care provider" in the HITECH Act to include behavioral, mental health, and substance abuse professionals, clinics, and facilities to enable them to receive Medicaid and Medicare EHR incentive payments;
- Reauthorize the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA), which funds Mental Health Court and other Department of Justice programs relating to mental health, through Federal Fiscal Year (FFY) 2019, and which authorizes a new Veterans Treatment Court program modeled after the existing Mental Health Court and Drug Court programs;
- Authorize the use of Byrne Justice Assistance Grant funds for law enforcement-related mental health programs and the use of COPS and SAFER funds to provide mental health training to law enforcement and first responder personnel;
- Reauthorize the Garrett Lee Smith Suicide Prevention Program;
- Treat caregivers, such as immediate family members, of mentally ill individuals as personal representatives who would have access to protected health and educational records of such individuals;
- Reduce the authorization for the Protection and Advocacy for Individuals with Mental Illness to \$5 million a year in FFYs 2014 through 2017, and prohibit such funds from being used for class action litigation or lobbying;
- Reorganize the Federal administration of mental health programs by transferring responsibility for mental health policies and programs from the Substance Abuse and Mental Health Services Administration (SAMHSA) to a newly created Assistant Secretary for Mental Health Disorders, who would head a new Center for Mental Health Services in the Department of Health and Human Services (HHS); and

- Terminate any SAMHSA program or project that is not explicitly authorized or required by statute by the end of FFY 2014.

H.R. 3717 was referred to the House Energy and Commerce Committee, which has not scheduled a mark-up of the bill though its Health Subcommittee held an informational hearing on April 3, 2014. The bill has 73 co-sponsors, including 23 Democrats, but no member of the County's Congressional delegation has co-sponsored the bill. The bill has provisions which have broad-based support and other provisions which are contentious and have resulted in both Representative Waxman, the Ranking Minority Member of the House Energy and Commerce Committee, and Representative Napolitano, who co-chairs the Congressional Mental Health Caucus with Representative Murphy, not supporting it. During the April 3, 2014 hearing on the bill, Representative Waxman voiced support for its reauthorization of programs, such as the Garrett Lee Smith Suicide Prevention Program, but concerns about other provisions, such as its reorganization of HHS administration of mental health programs, reduction of funding for and limitations on the use of Protection and Advocacy funding, and impact on Federal Medicaid costs. The bill's prospects for enactment will largely depend upon the extent to which bipartisan agreement on its provisions can be reached.

County Impact and Conclusion

The Helping Families in Mental Health Crisis Act (H.R. 3717), if enacted, could have a significant fiscal and programmatic impact on the County's Department of Mental Health (DMH). On a positive side, its new state option to waive the existing IMD exclusion would make Federal Medicaid matching funds available to reimburse half of the cost of inpatient psychiatric hospital services -- costs which currently are borne by counties in California. Expanding the definition of "health care provider" in the HITECH Act to include behavioral, mental health, and substance abuse professionals, clinics, and facilities would enable DMH and other mental health providers to receive Medicaid and Medicare funding for electronic health records. Under Federal "pay as you go" budget rules, the increased Federal entitlement spending resulting from these provisions must be offset by a corresponding amount of spending cuts or revenue increases. The bill, however, does not include any offset for such increased entitlement spending.

The County's DMH supports the bill's provisions which could create new mental health programs, such as grants for outpatient mental health treatment services, but indicates that the proposed funding and grant levels are so low that they would be of little or no benefit to the County. Only \$15 million a year would be authorized nationally for outpatient mental health treatment grants with each grant capped at only \$1 million. The authorized funding level for training of primary care physicians and telehealth services would be even lower -- only \$3 million a year.

On a negative side, its provision to terminate any SAMHSA program or project that is not explicitly authorized or required by statute by the end of FFY 2014 would result in deep discretionary spending cuts for mental health and substance abuse programs because the authorization for major SAMHSA programs, including its mental health and substance abuse prevention block grants, have expired. DMH also is concerned that the added costs of reorganizing the Federal administration of mental health programs and creating the new Center for Mental Health Services would reduce the amount of available Federal funding for the provisions of mental health services, such as through the Mental Health Block Grant. It, instead, believes that SAMHSA's current authority and responsibilities should be maintained. Similar to Representative Waxman, DMH also is concerned about the proposed reduction of funding and limitations that would be imposed on the Protection and Advocacy for Individuals with Mental Illness -- a program that received \$36 million in funding in FFY 2014, but for which only \$5 million a year would be authorized under H.R. 3717.

The County's Federal Legislative Agenda includes policies which are supportive of some provisions in the Helping Families in Mental Health Crisis Act (H.R. 3717), as well as policies which are in opposition to other provisions in the bill. The bill's provisions to provide Medicaid reimbursement for services provided to patients in IMDs and for EHR costs and create new grant programs to train primary care physicians and provide outpatient mental health treatment services which are consistent with existing Board policies to support proposals which would allow Medicaid reimbursement for patients in IMDs, increase Medicaid reimbursement for the County, and increase funding for mental health services, improved health information technology, and the training of health professionals. However, the provisions which would result in deep cuts and the possible elimination of discretionary mental health and substance abuse programs, such as the mental health and substance abuse block grants, are not consistent with existing Board policies to support increased funding for such programs. **Therefore, approval of this motion to send a 5-signature letter supporting H.R. 3717 in its entirety is a matter of Board policy determination.**

We will continue to keep you advised.

WTF:RA
MR:MT:ma

c: Executive Office, Board of Supervisors
County Counsel